

STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the Matter of the Application of	)	
AMERITECH COMMUNICATIONS, INC.	)	
for a License to Provide Basic	)	Case No. U-11053
Local Exchange Service to Ameritech	)	
Michigan and GTE North, Inc.	)	
Exchanges in Michigan	)	
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REPLIES TO EXCEPTIONS OF  
TCG DETROIT, INC.

In their respective Exceptions to the Proposal for Decision ("PFD"), the Commission Staff ("Staff") and AT&T Communications of Michigan, Inc. ("AT&T") noted that certain of the Administrative Law Judge's ("ALJ") findings or conclusions in his PFD were incorrect because they conflicted with the express provisions and intent of the Federal Telecommunications Act of 1996 ("FTA") and with the Federal Communications Commission's ("FCC") recently issued Notice of Proposed Rulemaking ("NPRM") regarding implementation and enforcement of the safeguards contained in Sections 271 and 272 of the FTA.<sup>1</sup> In its Exceptions, Staff states that the ALJ erred in concluding that a joint marketing arrangement between Ameritech Communications, Inc. ("ACI") and Ameritech Michigan is not a viable option for ACI as opposed to obtaining a license to provide basic

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<sup>1</sup>In the Matter of Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended; and Regulatory Treatment of LEC Provision of Interexchange Services Originating in the LEC's Local Exchange Area. CC Docket No. 96-149, July 18, 1996.

local exchange service to offer "one stop shopping" bundled telecommunication services. Staff argued that Congress, in enacting the FTA, envisioned joint marketing with respect to basic local exchange and interLATA services and not integrated marketing as proposed by ACI. Staff also argued that its position with respect to joint marketing is further supported by the recent NPRM issued by the FCC on July 18, 1996, which again focuses on joint marketing as opposed to integrated marketing as proposed by ACI. Staff correctly argued in its Exceptions that the intent of the FTA, which seems to be confirmed by the FCC in its NPRM, is to prevent Bell Operating Companies ("BOC") from improperly using their market power in the local exchange market against competitors in the interLATA telecommunications services market, and thus does not envision integrated marketing by BOCs. ACI's request for a license for basic local exchange to provide integrated marketing as "one stop shopping" therefore might be directly contrary to Congress' legislative intent.

In its Exceptions, AT&T also referenced the NPRM issued by the FCC to demonstrate why the ALJ erred in finding that the "determining question" in this case with respect to the public interest is how granting ACI a license to provide basic local exchange service will impact the market for all telecommunication services. As pointed out by TCG Detroit in its Exceptions, as well as other intervenors and Staff, the ALJ erred by basing his recommendation to grant ACI a license to provide basic local exchange service on the impact it would have on the market for all telecommunications services, including interLATA long distance, and by doing so improperly exceeded the scope of this proceeding. As noted by AT&T at page 7 of its exceptions, Congress determined that the FCC, and not state commissions, have authority to determine the public interest in the interLATA market. Recognizing that the FCC issued its NPRM on July 18, 1996, the same day on which the ALJ issued his PFD in this case, it would not be entirely fair to say that the ALJ erred by not considering the

NPRM when he issued his PFD in making his findings as to the public interest in this proceeding. However, the FCC's NPRM merely crystallized what already seemed to be clear from the FTA, that state commissions could not make determinations on their own as to the public interest with respect to all telecommunications services, especially interLATA service. In making its findings with respect to ACI's application for a license in this case, the Commission should take into consideration the FCC's recent NPRM and should reject ACI's request for a license to provide basic local exchange service in this case.

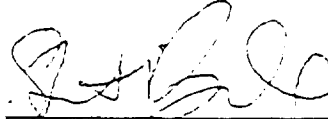
In his Exceptions, the Attorney General raised an interesting point which bears repeating and which the Commission should keep in mind when assessing ACI's application for a license in this case. The Attorney General alluded to criminal proceedings in which prior bad acts is inadmissible to prove present conduct, but argued that in the context of this contested case the Commission should consider Ameritech's past conduct in determining whether the public interest would be served by granting ACI a license in this case. Although the ALJ in his PFD recognized that Ameritech's conduct heretofore has been "less than exemplary," he nevertheless contended that it is unreasonable to assume ACI or its affiliates would violate express provisions of the law proscribing anti-competitive conduct. The ALJ's finding is troubling since statutory proscriptions against anti-competitive conduct have already existed and Ameritech has violated them. The evidence presented in this case has only reaffirmed this concern. Given Ameritech's history, it is unreasonable to merely rely upon promises of compliance with statutory restrictions when Ameritech has shown that it has not done so already. The potential harm against competitors and consumers is too significant to rely on this blind faith that Ameritech will now, contrary to its history, conduct itself properly and in

compliance with the law. The Commission should therefore reject ACI's application for a license to provide basic local exchange service.

Respectfully submitted,

TCG Detroit, Inc.

By Its Attorneys  
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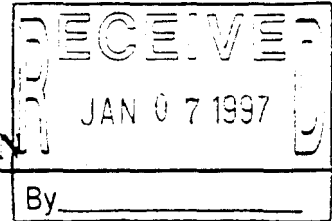
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Dated: August 5, 1996

STATE OF ILLINOIS

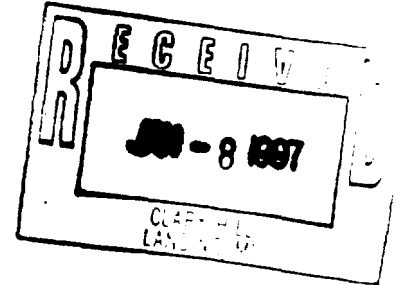


ILLINOIS COMMERCE COMMISSION



Office of General Counsel

January 7, 1997



Ms. Donna Caton  
Chief Clerk  
Illinois Commerce Commission  
527 East Capitol Street  
P.O. Box 19280  
Springfield, Illinois 62794-9280

Re: Ill. C.C. Docket 96-0404

Dear Ms. Caton:

Enclosed for filing in the above-referenced docket please find an original and four copies of the "Supplemental Rebuttal Testimony of the Staff of the Illinois Commerce Commission". Also enclosed is a Notice of Filing and Certificate of Service.

Please acknowledge receipt by date stamping a duplicate copy of this letter and returning it to me in the envelope provided.

Sincerely,

  
G. DARRYL REED

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Counsel for the Staff of the  
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GDR/bjm  
cc: Service list (w/encls.)

STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

ILLINOIS COMMERCE COMMISSION

On Its own Motion

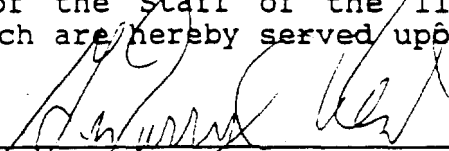
Investigation concerning Illinois Bell  
Telephone Company's compliance with  
Section 271(c) of the Telecommunications  
Act of 1996

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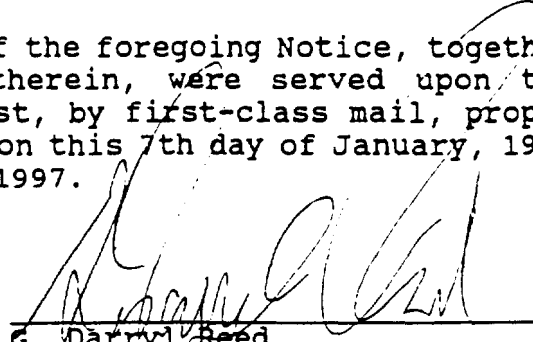
NOTICE OF FILING

YOU ARE HEREBY NOTIFIED that I have, on this 7th day of January, 1997, forwarded to the Chief Clerk of the Illinois Commerce Commission, for filing in the above-captioned docket, the "Supplemental Rebuttal Testimony of the Staff of the Illinois Commerce Commission", copies of which are hereby served upon you.

  
\_\_\_\_\_  
G. Darryl Reed  
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the foregoing Notice, together with the documents referred to therein, were served upon the parties on the attached Service List, by first-class mail, proper postage prepaid Chicago, Illinois, on this 7th day of January, 1997 or by hand-delivery on January 7, 1997.

  
\_\_\_\_\_  
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96-040-  
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ICC Staff Exhibit 1992

RECEIVED  
JAN 17 1997  
By \_\_\_\_\_

SUPPLEMENTAL REBUTTAL TESTIMONY

OF

CHARLOTTE F. TERKEURST

TELECOMMUNICATIONS DIVISION  
ILLINOIS COMMERCE COMMISSION

Docket 96-0404

January 1997

1 Q. Please state your name and business address.

2 A. My name is Charlotte F. TerKeurst and my business address is  
3 527 East Capitol Avenue, Springfield, Illinois.

4 Q. Are you the same Charlotte F. TerKeurst who filed direct and  
5 rebuttal testimony in this proceeding?

6 A. Yes, I am.

7 Q. What is the purpose of your supplemental rebuttal testimony  
8 in this proceeding?

9 A. I address several issues raised by Illinois Bell Telephone  
10 Company ("Ameritech Illinois" or "AI") in its rebuttal and  
11 supplemental rebuttal filings. I update the status of  
12 negotiations between new entrants and Ameritech Illinois. In  
13 addition, I address whether certain new carriers provide  
14 telephone exchange service to residential customers and whether  
15 they are predominantly facilities-based, as required by Section  
16 271(c)(1)(A) of the federal Telecommunications Act of 1996 ("the  
17 1996 Act"). I address Ameritech Illinois' proposed Statement of  
18 Generally Available Terms ("SGAT" or "General Statement").  
19 Finally, I address the role of most favored nation ("MFN")  
20 clauses and other factors relevant in assessing checklist  
21 compliance.

22 For consistency, my supplemental rebuttal testimony follows  
23 the basic outline used in my direct and rebuttal testimony  
24 submitted previously (ICC Staff Exhibits 1.00 and 1.01).

1     Background

2     Q.    What is the stated purpose of Ameritech Illinois'  
3     supplemental rebuttal testimony?

4     A.    Ameritech Illinois witness David H. Gebhardt states that the  
5     purpose of the supplemental rebuttal testimony is to provide  
6     additional information requested by Staff (AI Ex. 1.2 at 1).

7     Q.    What is your general view of Ameritech Illinois'  
8     supplemental rebuttal testimony, considering Mr. Gebhardt's  
9     statement of the purpose of the testimony?

10    A.    Ameritech Illinois' supplemental rebuttal testimony does  
11    provide certain additional information that Staff recommended be  
12    required before the Commission determines the extent to which  
13    Ameritech Illinois has complied with the requirements in Section  
14    271 of the 1996 Act.  It also updates the information to reflect  
15    several developments since Ameritech Illinois' prior filings.

16           I want to emphasize that the concerns expressed in Staff's  
17    direct and rebuttal testimony were not just that inadequate  
18    information had been submitted.  Although Staff pointed out that  
19    necessary information was missing, the main thrust of Staff's  
20    testimony was that Ameritech Illinois' local market had not, and  
21    still has not, been opened to competition to the extent required  
22    by Section 271.  It is clear that no amount of additional  
23    information can cure this deficiency at present.

24           While saying this, I recognize that significant progress has  
25    been made since Ameritech Illinois' initial filings in this

1 proceeding. Indeed, I provide information in this supplemental  
2 rebuttal testimony regarding events that have occurred after  
3 Ameritech Illinois' supplemental rebuttal testimony was filed.  
4 However, Staff continues to conclude that Ameritech Illinois has  
5 not yet met the full Section 271 requirements. Further  
6 developments are needed before it can be determined that the  
7 Section 271 conditions have been met.

8 The "Mix and Match" Issue

9 Q. Please respond to Ameritech Illinois' position that a BOC  
10 may satisfy the "residential and business" requirement in Section  
11 271(c)(1)(A) through one competitor operating in the residential  
12 market and another operating in the business market. AI Reply  
13 Memorandum at 15.

14 A. Ameritech Illinois set out this position in response to my  
15 statement that "an agreement with a competing provider should be  
16 usable to satisfy Section 271(c) only if the provider already has  
17 both residential and business customers." ICC Staff Ex. 1.00 at  
18 7. I am not aware of any policy reasons for requiring that a  
19 single competitor serve both residential and business customers,  
20 instead of one competitor serving the residential market and  
21 another competitor serving the business market. My statement was  
22 made in the context that some existing carriers are currently  
23 serving only business customers and that there are not comparable  
24 carriers serving only residential customers. It is my  
25 understanding that, in order for Ameritech Illinois to be deemed

1 to provide an item in the Section 271(c)(2)(B) access and  
2 interconnection checklist, it must provide the item to at least  
3 one predominantly facilities-based carrier, and both residential  
4 and business customers must be served by the carrier(s). Staff  
5 plans to address during the briefing stage of this proceeding  
6 whether, from a legal perspective, Ameritech Illinois' position  
7 that one carrier serving residential customers and another  
8 carrier serving business customers can be used to meet this  
9 requirement is consistent with Section 271(c)(1)(A).

10  
11 The Terms "Provide" and "Is Providing"

12 Q. Has Ameritech Illinois responded to your conclusion that the  
13 most reasonable interpretation of the term "is providing" in  
14 Section 271(c)(1)(A) is that Ameritech Illinois must actually  
15 furnish the access and interconnection (ICC Staff Ex. 1.00 at  
16 15)?

17 A. Yes. In its Reply Memorandum, Ameritech Illinois states  
18 that "Staff appears to agree with Ameritech Illinois with respect  
19 to the proper interpretation of the statutory requirement that a  
20 BOC be 'providing' access and interconnection under the agreement  
21 on which it bases its Section 271 application." Ameritech  
22 Illinois then cites, in apparent agreement, my testimony that the  
23 BOC "must actually furnish the access and interconnection." AI  
24 Reply Memorandum at 1-2.

25 In response, I note, first, that I was not offering a legal  
26 interpretation of the 1996 Act, and, second, that it does not

1 appear that Staff and Ameritech Illinois agree in total. While  
2 we may agree in part, I believe that significant differences  
3 still remain.

4 Ameritech asserts that I took out of context its position  
5 that "a BOC will satisfy the requirements of Section 271(c)(1)(A)  
6 as soon as it has entered into 'one or more binding agreements'  
7 for interconnection" (emphasis added). Ameritech Illinois  
8 pointed out that the cited quote is from its answer to the  
9 Commission's question 3, and stated that it addressed the meaning  
10 of "providing access and interconnection" in its responses to the  
11 Commission's questions 12 and 13. AI Reply Memorandum at 2, fn.  
12 1.

13 Ameritech Illinois and I can quibble about whether I read  
14 its answer to question 3 out of context; the answer says what it  
15 says. However, I still disagree with Ameritech Illinois, based  
16 on other statements it has made, about whether it is reasonable  
17 to find that the track A requirements may be met by portions of  
18 an agreement that are not being exercised. In its response to  
19 question 12, Ameritech Illinois states, "a BOC satisfies Section  
20 271(c)(2)(B)'s requirement that it 'provide' the 'checklist'  
21 items when it makes a 'checklist' item available, although no  
22 competitor decides to take it." AI Legal Memorandum at 20.  
23 Similarly, Ameritech Illinois' answer to question 13 states, "the  
24 critical factor in terms of the satisfaction by a BOC of the  
25 'competitive checklist' in Section 271(c)(2)(B) is that the  
26 'checklist items' are immediately available to competing

1 providers of local exchange service, even if they are not  
2 actually taking one or more items because they have no need for  
3 them or otherwise prefer not to take them from Ameritech  
4 Illinois." AI Legal Memorandum at 23, emphasis in original.

5 Consistent with the Legal Memorandum, Mr. Gebhardt states in  
6 his rebuttal testimony that:

7 any interconnection arrangements or other checklist items  
8 which [Ameritech Illinois] is providing to a carrier that  
9 satisfies the so-called "Track A" provisions of the Act must  
10 be in place and operational. Additionally, all remaining  
11 checklist item[s] must be available to such carrier and  
12 Ameritech Illinois must have fully implemented them in the  
13 event such carrier wishes to obtain access to them. I do  
14 not agree, however, that the extensive, post-implementation  
15 "operational testing" which the IXCs call for is necessary  
16 or warranted. AI Ex. 1.1 at 6-7.

17 Mr. Gebhardt's position is consistent with the Reply Memorandum's  
18 assertion that:

19 Ameritech Illinois' agreements with MFS and CCT satisfy the  
20 "is providing" requirement of Section 271(c)(1)(A) because  
21 under those agreements Ameritech Illinois (1) is actually  
22 furnishing to MFS and CCT all of "the items included in the  
23 checklist" that they "have requested" and (2) is making  
24 immediately available through the agreements and a General  
25 Statement all additional checklist items that MFS and CCT  
26 have not specifically asked to purchase. AI Reply  
27 Memorandum at 2-3.

28 I continue to recommend that Ameritech Illinois should be  
29 found to meet the track A requirement that it "is providing"  
30 access and interconnection only if the item in question is being  
31 provided on a commercial basis and the competing carrier is  
32 obtaining, using, and (where relevant) paying for the checklist  
33 item. ICC Staff Ex. 1.01 at 9. As I discussed in my direct  
34 testimony, an agreement may contain language providing for  
35 checklist items on terms and conditions which do not meet the

1 requirements set forth in the 1996 Act. The new entrant may have  
2 agreed to such terms as a trade-off to obtain more favorable  
3 terms on another provision or because it did not seriously plan  
4 to use those services. See ICC Staff Ex. 1.00 at 16. Because a  
5 connecting carrier may not have sought or desired the most  
6 reasonable terms for such items, those portions of an agreement  
7 should not be considered in determining track A compliance. This  
8 policy is best achieved by my recommendation that the Commission  
9 only consider those items which the competing carrier is  
10 obtaining, using, and (where relevant) paying for.

11 Section 271(c)(1)(A)

12 Q. In your direct testimony, you described the status of  
13 negotiations between new entrants and Ameritech Illinois. Please  
14 update this information.

15 A. The Commission has approved negotiated agreements between  
16 Ameritech Illinois and the following carriers:

17 Southwestern Bell Mobile Systems ("SBMS"--Docket 96 NA-001)

18 MFS Intelenet of Illinois, Inc. ("MFS"--Docket 96 NA-002)

19 WinStar Telecommunications, Inc. ("Winstar"--Docket 96 NA-  
20 003)

21 Consolidated Communications Telecom Services, Inc. ("CCT" or  
22 "CCTS"--Docket 96 NA-005)

23 Commission review of the following negotiated agreements is  
24 pending:

25 Focal Communications Corporation (Docket 96 NA-006)



1 Eastern Missouri Cellular Limited Partnership, Missouri RSA  
2 8 Limited Partnership, and Missouri 11/12 Limited  
3 Partnership (Docket 96 NA-007)

4 Southwestern Bell Mobile Systems, Inc.; SBMS Cellular  
5 Telecommunications Bloomington, Inc.; Champaign CellTelCo,  
6 Inc.; Decatur Cellular Telephone Company, Inc.; SBMS  
7 Cellular Telecommunications Springfield, Inc.; and  
8 Texas/Illinois Cellular Limited Partnership (Docket 96 NA-  
9 008)

10 The Commission has issued Orders in arbitration proceedings  
11 involving Ameritech Illinois and the following carriers:

12 Teleport Communications Group, Inc. ("TCG"--Docket 96 AB-  
13 001)

14 AT&T Communications of Illinois, Inc. ("AT&T"--Docket 96 AB-  
15 003/004)

16 MCI Telecommunications Corporation ("MCI"--Docket 96 AB-006)

17 One arbitration docket is pending involving Ameritech  
18 Illinois: Sprint Communications (Docket 96 AB-008), with a  
19 statutory deadline of January 15, 1997. On December 20, 1996,  
20 TCI Telephony Services of Illinois, Inc. ("TCI") filed a Request  
21 for Dismissal in Docket 96 AB-010, indicating that TCI and  
22 Ameritech Illinois have reached a negotiated agreement which they  
23 will file for approval.

24 Agreements that combine arbitrated issues and negotiated  
25 issues have been submitted for approval by Ameritech Illinois and  
26 the following carriers:

27 AT&T (Docket 96 AA-001)

28 TCG (Docket 96 AA-002)

1 Commission action in both these dockets is anticipated by January  
2 10, 1997.

3 To my knowledge, Ameritech Illinois has not entered into  
4 agreements with any of the other ten carriers that Ameritech  
5 Illinois reported have requested negotiation (ICC Staff Ex. 1.00  
6 at 22-23). Ameritech Illinois has not indicated whether  
7 additional carriers have requested negotiation since November.

8 Q. Has Ameritech Illinois provided additional information  
9 regarding its interconnection agreements?

10 A. In my rebuttal testimony, I recommended that Ameritech  
11 Illinois be instructed to provide additional information for each  
12 interconnection agreement upon which it plans to rely in its  
13 application to the Federal Communications Commission ("FCC") for  
14 interLATA relief. ICC Staff Ex. 1.01 at 14-15. In response,  
15 Ameritech Illinois provided additional information for only three  
16 carriers: TCG, MFS, and CCT. As noted above, the MFS and CCT  
17 agreements have been approved and Commission consideration of the  
18 TCG agreement is expected later this week.

19

20 Q. Please assess whether, consistent with Section 271(c)(1)(A),  
21 TCG, MFS, and CCT are providers of telephone exchange service to  
22 residential and business subscribers.

23 A. Ameritech Illinois states that it does not know whether TCG  
24 is providing service to residential customers. AI Ex. 2.2,  
25 Schedule 1 at 1. While TCG has not filed testimony in this

1 proceeding, it indicated in response to a Staff data request that  
2 it provides business exchange service but does not provide  
3 residential exchange service. TCG Response to Staff Data Request  
4 1, and ICC Staff Ex. 2.01. Based on the information provided by  
5 TCG, and consistent with my testimony on the "mix and match"  
6 issue, it appears inappropriate for Ameritech Illinois to rely on  
7 TCG's operations in an interLATA application.

8 Ameritech Illinois states that it believes that MFS provides  
9 telephone exchange service to residential and business  
10 subscribers. AI Ex. 2.2, Schedule 1 at 1. However, it does not  
11 provide any support for this statement. MFS witness Ruth F.  
12 Durbin states that MFS provides business exchange service but  
13 does not have any residential customers subscribing to its local  
14 exchange service. Durbin Direct Testimony at 20. In light of  
15 this contradictory information, I recently submitted additional  
16 data requests to both Ameritech Illinois and MFS in an attempt to  
17 resolve this issue. I plan to make any responses available to  
18 the Commission upon receipt.

19 Ameritech Illinois states that it believes that CCT provides  
20 telephone exchange service to both residential and business  
21 customers (AI Ex. 2.2, Schedule 1 at 1), and Consolidated  
22 Communications' witness agrees (CCI Ex. 1 at 5).<sup>1</sup> Unless it is

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23 <sup>1</sup>Scott A. Jennings submitted testimony on behalf of  
24 Consolidated Communications Inc. ("CCI"), the parent company of  
25 Consolidated Communications Telecom Services Inc. He refers to  
26 Consolidated Communications Telecom Services Inc. as CCTS,  
27 whereas Ameritech Illinois uses the acronym CCT. I use the term  
28 CCT.

1 confirmed that MFS is providing telephone exchange service to  
2 residential customers, CCT may be the only carrier upon which  
3 Ameritech Illinois should base an interLATA application.

4 Q. What position has Ameritech Illinois taken in its rebuttal  
5 and supplemental rebuttal filings regarding which carriers should  
6 be considered to be predominantly facilities-based for purposes  
7 of Section 271(c)(1)(A)?

8 A. In its Reply Memorandum, Ameritech Illinois continues to  
9 assert that leased network elements constitute a competitor's  
10 "own" facilities for purposes of the "facilities-based  
11 competitor" requirement in Section 271(c)(1)(A). AI Reply  
12 Memorandum at 7-10. Mr. Gebhardt states that, from a policy  
13 perspective, any definition of "predominantly" must not be based  
14 on cost, but rather on the functional and revenue-generating  
15 importance of the facilities to the competitor. He asserts that,  
16 although central office investment represents only 39% of  
17 Ameritech Illinois' network, it is competitively the most  
18 significant and is the "profit center" for local exchange  
19 service. AI Ex. 1.1 at 13-14.

20 In his supplemental rebuttal testimony, Mr. Gebhardt  
21 suggests how the Commission could apply a net revenue test, such  
22 as suggested by MCI, if it concludes that a net revenue test is  
23 required by the Act. Mr. Gebhardt states that it would be  
24 reasonable for the Commission to establish a rebuttable  
25 presumption that any new LEC which provides service using its own

1 switch will satisfy a 50% net revenue test. Mr. Gebhardt then  
2 concludes that it would be reasonable to apply this presumption  
3 to MFS, TCG, and CCT. AI Ex. 1.2 at 3-10.

4 Q. Please respond to Ameritech's statements.

5 A. I addressed the treatment of unbundled network elements in  
6 my direct and rebuttal testimony (ICC Staff Ex. 1.00 at 26-30 and  
7 ICC Staff Ex. 1.01 at 11-12). Ameritech Illinois has presented  
8 no new evidence that a competing carrier has enough control over  
9 an Ameritech Illinois unbundled network element for the element  
10 to be classified as the competing carrier's facility.

11 The net revenue analyses that Mr. Gebhardt provided are  
12 informative. Mr. Gebhardt provided details in response to a  
13 Staff data request that supported his methodology and results.  
14 However, as I already pointed out, a net revenue test may be of  
15 limited value in determining the extent to which a carrier is  
16 facilities-based. This test assesses the "value added" by the  
17 competitor, whether through its facilities, marketing, retail  
18 functions or other means. ICC Staff Ex. 1.01 at 12-13. This  
19 approach doesn't accurately compare the portion of revenues due  
20 to other carriers' facilities and the portion due to the new  
21 entrant's facilities. As a result, more direct measures of  
22 whether a carrier is predominantly facilities-based should be  
23 used to the extent possible.

1 Q. Please respond to Mr. Gebhardt's statement that, "It would  
2 be my expectation that switched-based competitors will rely  
3 primarily on their switch to provide service to customers and  
4 will use resale primarily to fill in service gaps for a multi-  
5 location customer." AI Ex. 1.2 at 7.

6 A. While some switch-based carriers may follow the scenario Mr.  
7 Gebhardt expects, some may not. Some may begin as predominantly  
8 resellers and migrate to switch-based service. Some may deploy  
9 switches in portions of the State and operate as resellers  
10 elsewhere.

11 TCG declined to answer Staff's data request asking it to  
12 respond to the Commission's question 20(d) regarding the extent  
13 to which it uses its own facilities, unbundled elements, or  
14 resold services obtained from Ameritech Illinois, on the basis  
15 that the information sought is highly confidential trade secrets.  
16 TCG response to Staff Data Request 5.

17 MFS provided proprietary information regarding the extent to  
18 which it uses only its own facilities, the extent to which it  
19 purchases unbundled loops from Ameritech Illinois, and the extent  
20 to which it uses resold bundled services obtained from Ameritech  
21 Illinois. This information is in Schedule 1.00 to ICC Staff Ex.  
22 2.01P.

23 CCT responded that it has approximately 100 lines using  
24 facilities that it wholly owns; approximately 4,600 lines using  
25 Ameritech Illinois unbundled loops with CCT switching; and  
26 approximately 100 lines that are resold Ameritech Illinois lines.

1           AT&T has made clear its intent to provide both Total  
2   Services Resale and switch-based services.   AT&T Responses to  
3   Staff Data Requests 7 and 9.

4  
5   Q.   Please respond to Mr. Gebhardt's conclusion that it would be  
6   reasonable to establish a rebuttable presumption that MFS, TCG,  
7   and CCT satisfy a 50% net revenue test.   AI Ex. 1.2 at 10.

8   A.   As I have indicated, MFS and CCT provided data regarding the  
9   extent to which they currently use their own facilities,  
10   unbundled loops, and resale.   For these two companies, Mr.  
11   Gebhardt's net revenue analysis methodology, combined with the  
12   data regarding the extent to which they use their own facilities,  
13   unbundled loops, or resale, indicate that they would satisfy a  
14   50% net revenue test.   As I stated earlier, however, more direct  
15   measures of whether a carrier is predominantly facilities-based  
16   are preferable.

17           Absent data regarding TCG's operations, I believe it would  
18   be unwise to establish a rebuttable presumption for TCG.  
19   Further, since TCG states that it does not serve residential  
20   customers, there appears to be no need to establish in this  
21   record the extent to which TCG is facilities-based.

22   Q.   After reviewing Mr. Gebhardt's net revenue analyses, do you  
23   have other suggestions regarding an evaluation of the extent to  
24   which a carrier is facilities-based?

1 A. Yes. I suggest that the Commission consider a relative-  
2 LRSIC analysis, comparing LRSICs of various network elements, to  
3 determine whether a carrier that buys unbundled network elements  
4 is predominantly facilities based. A direct comparison of costs  
5 rather than revenues would provide a more reliable estimate of  
6 the extent to which a carrier is facilities based. Mr. Jennings  
7 addresses the mechanics of a relative-LRSIC analysis in ICC Staff  
8 Ex. 4.02. For a carrier that provides service using a mix of  
9 facilities-based service, unbundled loops, and resale, a weighted  
10 average can be obtained. If a relative-LRSIC analysis indicates  
11 that a new entrant owns facilities that cost over half the total  
12 cost of providing exchange service, the Commission can conclude  
13 that the entrant is predominantly facilities-based.

14 Q. Has Staff performed a relative-LRSIC analysis for TCG, MFS,  
15 and CCT?

16 A. We are finalizing such an analysis, and plan to provide  
17 results shortly.

18 Section 271(c)(1)(B)

19 Q. Has Ameritech Illinois requested to amend its SGAT since its  
20 supplemental rebuttal testimony was filed in this proceeding?

21 A. Yes. On December 24, 1996, Ameritech Illinois filed a  
22 Motion in Docket 96-0491 requesting that an amended SGAT be  
23 allowed to go into effect in less than 60 days, subject to  
24 further review pursuant to Section 252(f)(4) of the 1996 Act.



1 The Motion states that the proposed amendments to the SGAT  
2 conform its terms, conditions and prices to the outcome of the  
3 AT&T arbitration decision in Docket 96 AB-003/004.

4 Q. Has Ameritech Illinois reflected this proposed amendment in  
5 its filings in Docket 96-0404?

6 A. The revisions to Schedule 1 to AI Ex. 2.2 that Ameritech  
7 Illinois submitted on December 20, 1996 appear to update the SGAT  
8 information to conform with the proposed amendment. However, it  
9 appears that Schedule 5 to AI Ex. 2.2 may need some modifications  
10 as well.

11 Q. Has Staff analyzed the currently effective SGAT and the  
12 proposed revisions?

13 A. Staff has focused on the proposed revisions rather than the  
14 currently effective SGAT. We describe some of our initial  
15 findings and concerns in our supplemental rebuttal testimony.  
16 However, we expect to conduct a more thorough review in Docket  
17 96-0491.

18 I recognize that the proposed SGAT is very similar to the  
19 Ameritech-AT&T agreement submitted for approval in Docket 96 AA-  
20 001. I also recognize that the standards set forth in Section  
21 252(e)(2)(B) for agreements and Section 252(f)(2) for statements  
22 both refer to Section 251, Section 252(d) and the applicable FCC  
23 regulations. However, even if the Commission approves the  
24 Ameritech-AT&T agreement and further assuming that the standards